

FILED

MAY 31 2013

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:) Case No. 13-N-12629
JAMES PAUL SWANSEEN,)
No. 159918,) NOTICE OF DISCIPLINARY CHARGES
A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

**IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT
THE STATE BAR COURT TRIAL:**

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. JAMES PAUL SWANSEEN ("Respondent") was admitted to the practice of law in
4 the State of California on October 15, 1992, was a member at all times pertinent to these charges,
5 and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 13-N-12629
8 Failure to Obey Rule 9.20, California Rules of Court

9 2. Respondent willfully violated rule 9.20, California Rules of Court by willfully
10 disobeying or violating an order of the court as follows:

11 3. On or about December 3, 2012, the California Supreme Court filed Order No.
12 S205534 (hereinafter "9.20 Order"). The 9.20 Order included a requirement that Respondent
13 comply with Rule 9.20, California Rules of Court, by performing the acts specified in
14 subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of the 9.20
15 Order. (A true and correct copy of the 9.20 Order is attached hereto as Exhibit 1 and is
16 incorporated by reference.)

17 4. On or about December 3, 2012, the Clerk of the Supreme Court of the State of
18 California properly served upon Respondent a copy of the 9.20 Order. Respondent received the
19 9.20 Order.

20 5. The Supreme Court Order became effective on January 2, 2013, thirty days after the
21 9.20 Order was filed. Thus Respondent was ordered to comply with subdivision (a) and/or (b) of
22 rule 9.20 of the California Rules of Court no later than on or about February 1, 2013, and was
23 ordered to comply with subdivision (c) of Rule 9.20 no later than on or about February 11, 2013.

24 6. Respondent has failed to file with the clerk of the State Bar Court a declaration of
25 compliance with Rule 9.20 (a) and (b), California Rules of Court, as required by Rule 9.20(c).

26 7. By not filing a declaration of compliance with Rule 9.20 in conformity with the
27 requirements of Rule 9.20(c), Respondent failed to timely comply with the provisions of
28 Supreme Court Order No. S205534 requiring compliance with Rule 9.20, California Rules of

1 Court. By the foregoing conduct, Respondent willfully violated rule 9.20, California Rules of
2 Court.

3 **NOTICE - INACTIVE ENROLLMENT!**

4 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**
5 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**
6 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**
7 **THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO**
8 **THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN**
9 **INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE**
10 **ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE**
11 **RECOMMENDED BY THE COURT.**

12 **NOTICE - COST ASSESSMENT!**

13 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC**
14 **DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS**
15 **INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING**
16 **AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND**
17 **PROFESSIONS CODE SECTION 6086.10.**

18 Respectfully submitted,

19 THE STATE BAR OF CALIFORNIA
20 OFFICE OF THE CHIEF TRIAL COUNSEL

21 DATED: May 31, 2013

22 By: 

23 SUZAN J. ANDERSON
24 Senior Trial Counsel

DEC - 3 2012

(State Bar Court No. 12-O-14315)

Frank A. McGuire Clerk

S205534

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re JAMES PAUL SWANSEEN on Discipline

The court orders that James Paul Swanseen, State Bar Number 159918, is suspended from the practice of law in California for three years, execution of that period of suspension is stayed, and he is placed on probation for four years subject to the following conditions:

1. James Paul Swanseen is suspended from the practice of law for a minimum of the first six months of probation, and he will remain suspended until the following requirements are satisfied:
 - i. He makes restitution to Surya Ratnam in the amount of \$6,850 plus 10 percent interest per year from October 29, 2005 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Surya Ratnam, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
 - ii. If he remains suspended for two years or more as a result of not satisfying the preceding condition, he must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
2. James Paul Swanseen must also comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 6, 2012.
3. At the expiration of the period of probation, if James Paul Swanseen has complied with all conditions of probation, the three-year period of stayed suspension will be satisfied and that suspension will be terminated.

EXHIBIT

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James Paul Swanseen must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order, or during the period of his suspension, whichever is longer and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

James Paul Swanseen must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-third of the costs must be paid with his membership fees for each of the years 2014, 2015, and 2016. If James Paul Swanseen fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

30 day of September 20 12
Clerk

By:

Deputy

CANTIL-SAKAUYE

Chief Justice

DECLARATION OF SERVICE

by
U.S. CERTIFIED MAIL AND U.S. FIRST-CLASS MAIL

CASE NUMBER(s): 13-N-12629

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES



By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco.



By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))



By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").



By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)



(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
Article No.: 7196 9008 9111 6623 0913 at San Francisco, addressed to: (see below)



(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,
Tracking No.: addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
James Paul Swanseen	James Swanseen 14 Matilda Ave Mill Valley, CA 94941	Electronic Address	



via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A


I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: May 31, 2013

SIGNED:


Meagan McGowan
Declarant